

REMARKS

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 2-5, 7-10 and 13 are currently being amended.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-14 (14 claims) are now pending in this application.

The Office Action of July 26, 2004 and the references cited therein have been considered. In response to the rejections to the claims, the Applicants provide the following comments. As demonstrated, however, each of the rejections is believed overcome, with the application being placed in condition for allowance. Accordingly, reconsideration and allowance of this application is respectfully requested.

On page 2, paragraph 1, the Examiner has rejected claims 2-5, 7-10, and 13 under 35 U.S.C. §112, second paragraph. The Examiner cites typographical errors in the numbering of the cited claims. In response, Applicants have amended claims 2-5, 7-10 and 13 to correct the typographical errors in the internal numbering so that the dependent claims cite back to the appropriate independent claim. Also, in claim 5, line 3, claim 10, line 3 and claim 13, line 3, Applicants have replaced the word "such" with the word "the" as suggested by the Examiner for grammatical reasons. Also, in claim 7, line 2, Applicants have replaced the phrase "a cover" with the phrase "the cover". The cover was previously recited in line 1 of claim 6. Accordingly, Applicants believe that claims 2-5, 7-10 and 13 now particularly point out and distinctly claim the subject matter of the invention and respectfully request that the Examiner withdraw his rejection of those claims under 35 U.S.C. §112, second paragraph.

On page 3, paragraph 3 of the Office Action, the Examiner has rejected claims 1-14 under 35 U.S.C. §103(a) as being unpatentable over Greer (USPN: 6,194,675). The Examiner uses language of the present application in an attempt to identify various elements recited in Greer in the double throw switch linkage disclosed in Greer. In response, Applicants submit that the Examiner is relying on hindsight in making the above obviousness rejection of the cited claims under 35 U.S.C. §103(a). Applicants believe that the Examiner is basing his rejections on the mere identification in the prior art of individual components of claimed limitations in the present application. For example, the Examiner identifies element 12 of Greer as being a “sidewall of the enclosure”. Element number 12 in Greer is a “frame” and not a wall of the enclosure. (See col. 3, line 23 and col. 3, lines 25-29.) Further, the Examiner identifies element 32 of Greer as being a “lever arm”. Element 32 in Greer is a handle shaft, not a lever arm. (See col. 3, line 45.) The driver arm 30 is mounted on the handle shaft 32 as disclosed in Greer. The Examiner also attempts to state a reason why a skilled artisan in the art would look to Greer to support the Examiner’s §103 rejection of the present application. However, Applicants submit that Greer teaches away from the present application.

Applicants submit that Greer embodies the type of system identified by Applicants, (See paragraphs 0002 and 0003 of the present application), as requiring a framework, specifically element 12 of Greer which supports the remaining components of the Greer linkage assembly 10. The frame is mounted in the enclosure and is not a sidewall of the enclosure as described and claimed in the present application. The present application eliminates the frame 12 required by Greer and therefore the additional materials, labor and costs associated with the frame 12 for mounting the switch components. Applicants therefore submit that one ordinarily skilled in the art with no knowledge of the claimed invention would not look to Greer. There is no teaching or suggestion in Greer to mount the switch linkage components on anything other than a frame. Therefore, use of Greer, without evidence of such a suggestion, teaching or motivation to mount the switch linkages other than on a frame simply takes the inventor’s disclosure as a blueprint for piecing together the prior art to defeat patentability which is the essence of hindsight.

Applicants have pointed out the differences in structure, or identifications of the various elements cited by the Examiner in the Greer patent in making his obviousness rejections. The Examiner has not made any showing of the teaching or instruction to eliminate the frame which is required by Greer. Applicants submit that, as stated above, the claims are patentably distinct from the prior art cited by the Examiner and that one ordinarily skilled in the art would not be compelled to modify Greer to obtain that which is disclosed and claimed in the present application. The amendments to the dependent claims are corrections of typographical or grammatical errors and are not substantive relative to the comments above concerning the §103(a) rejection. Therefore, Applicants respectfully request that the Examiner withdraw his rejection of claims 1-14 under 35 U.S.C. §103(a).

The other prior art references by the Examiner but not relied upon have been reviewed.

Applicants have attempted to respond to the several rejections of the claims to the extent necessary to correct any ambiguities cited by the Examiner and to address the prior art cited by the Examiner but with the intent of not limiting the scope of the invention protection afforded by the patent laws and these claims any further than absolutely necessary. It is respectfully submitted that each outstanding rejection has now been overcome and that each claim is in condition for allowance. Reconsideration under 37 C.F.R. §1.111 and §1.112 is respectfully requested.

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

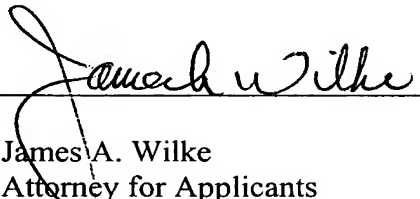
The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1447. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1447. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 06-1447.

Respectfully submitted,

Date 10-21-04

FOLEY & LARDNER LLP
Customer Number: 26371
Telephone: (414) 297-5776
Facsimile: (414) 297-4900

By 
James A. Wilke
Attorney for Applicants
Registration No. 34,279